

State of Arizona  
House of Representatives  
Forty-seventh Legislature  
Second Regular Session  
2006

# HOUSE BILL 2381

AN ACT

AMENDING SECTION 9-463.05, ARIZONA REVISED STATUTES; AMENDING TITLE 9, CHAPTER 4, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-500.26; RELATING TO DEVELOPMENT FEES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 9-463.05, Arizona Revised Statutes, is amended to  
3 read:

4 9-463.05. Development fees: imposition by cities and towns:  
5 annual report: definitions

6 A. A municipality may assess development fees to offset costs to the  
7 municipality ~~associated with~~ OF providing necessary public services to a  
8 development. NECESSARY PUBLIC SERVICES MAY INCLUDE GENERAL GOVERNMENT  
9 IMPROVEMENTS AND APPURTENANCES USED FOR SERVICES NEEDED TO PROVIDE NECESSARY  
10 PUBLIC SERVICES TO DEVELOPMENT. NECESSARY PUBLIC SERVICES SHALL NOT INCLUDE  
11 AIRPLANES OR ARTS OR CULTURAL FACILITIES OR APPURTENANCES TO THOSE  
12 FACILITIES.

13 B. Development fees assessed by a municipality under this section are  
14 subject to the following requirements:

15 1. ~~Development fees shall~~ NECESSARY PUBLIC SERVICES THAT ARE THE  
16 SUBJECT OF A DEVELOPMENT FEE SHALL BE ADDRESSED IN A CAPITAL IMPROVEMENTS  
17 PLAN FORMALLY ADOPTED BY THE GOVERNING BODY OF THE MUNICIPALITY PURSUANT TO  
18 THIS SECTION BEFORE THE INITIAL ASSESSMENT OF THE DEVELOPMENT FEE. THE  
19 CAPITAL IMPROVEMENTS PLAN SHALL DESCRIBE EACH NECESSARY PUBLIC SERVICE THAT  
20 IS THE SUBJECT OF A DEVELOPMENT FEE AND, FOR EACH NECESSARY PUBLIC SERVICE,  
21 SHALL:

22 (a) ESTABLISH ONE OR MORE SERVICE AREAS.

23 (b) IDENTIFY THE EXISTING LEVEL OF SERVICE IN EACH SERVICE AREA AND  
24 THE LEVEL OF SERVICE TO BE PROVIDED IN EACH SERVICE AREA.

25 (c) INCLUDE A DETERMINATION BY THE MUNICIPALITY THAT THE NECESSARY  
26 PUBLIC SERVICE WILL result in a beneficial use to the development SUBJECT TO  
27 THE FEE.

28 (d) TO THE EXTENT ANY PORTION OF THE COST OF THE NECESSARY PUBLIC  
29 SERVICE IS ATTRIBUTABLE TO EXISTING DEVELOPMENT, INCLUDE THE SPECIFIC MEANS  
30 AND METHOD AND ESTIMATED TIME BY WHICH THE MUNICIPALITY WILL FUND THAT  
31 PORTION OF THE COST.

32 (e) DISCLOSE ANY COMMITMENTS FOR USAGE OF CAPACITY IN EXISTENCE AT THE  
33 TIME THE DEVELOPMENT FEE IN RESPECT OF THE NECESSARY PUBLIC SERVICE IS  
34 ESTABLISHED.

35 2. Monies received from A development ~~fees~~ FEE assessed pursuant to  
36 this section shall be placed in a separate fund and accounted for separately  
37 and may only be used for the ~~purposes authorized by this section~~ NECESSARY  
38 PUBLIC SERVICE THAT IS THE SUBJECT OF THE DEVELOPMENT FEE. Interest earned  
39 on monies in the separate fund shall be credited to the fund. IF THE  
40 NECESSARY PUBLIC SERVICE THAT IS THE SUBJECT OF A DEVELOPMENT FEE IS NOT  
41 PROVIDED TO DEVELOPMENT IN THE SERVICE AREA THAT IS SUBJECT TO THE  
42 DEVELOPMENT FEE, MONIES RECEIVED ON ACCOUNT OF THE DEVELOPMENT FEE SHALL BE  
43 RETURNED TO THE PAYORS OF THE DEVELOPMENT FEE WITH ACCRUED INTEREST, IF ANY.

44 3. The schedule for payment of fees shall be provided by the  
45 municipality. The municipality shall provide FOR a credit toward the payment

1 of a development fee for the required dedication of ~~public sites and~~ REAL  
 2 PROPERTY OR improvements COMPRISING ALL OR PART OF THE NECESSARY PUBLIC  
 3 SERVICE THAT IS THE SUBJECT OF THE DEVELOPMENT FEE AND provided by the  
 4 developer ~~for~~ TO which ~~that~~ THE development fee is assessed. COMMENCING AS  
 5 OF THE EFFECTIVE DATE OF THIS SECTION, IF THE CREDIT REQUIRED UNDER THIS  
 6 PARAGRAPH EXCEEDS THE TOTAL DEVELOPMENT FEES PAYABLE BY THE DEVELOPER FOR THE  
 7 NECESSARY PUBLIC SERVICE THAT INCLUDES THE REQUIRED REAL PROPERTY OR  
 8 IMPROVEMENTS, THE MUNICIPALITY SHALL PROVIDE FOR REIMBURSEMENT TO THE  
 9 DEVELOPER FROM OTHER DEVELOPMENT FEES IN RESPECT OF SUCH NECESSARY PUBLIC  
 10 SERVICE WHICH ARE ACTUALLY COLLECTED BY THE MUNICIPALITY FROM OTHER  
 11 DEVELOPMENT RECEIVING THE BENEFICIAL USE OF SUCH SPECIFIC REAL PROPERTY OR  
 12 IMPROVEMENT AND FOR WHICH NO OTHER CREDITS ARE DUE. THE CREDIT SHALL NOT  
 13 EXCEED THE LESSER OF THE ACTUAL COST OF THE REAL PROPERTY OR IMPROVEMENT OR  
 14 THE AMOUNT OF DEVELOPMENT FEES ACTUALLY COLLECTED FROM OTHER DEVELOPERS  
 15 RECEIVING THE BENEFICIAL USE OF SUCH SPECIFIC REAL PROPERTY OR IMPROVEMENT,  
 16 AS DETERMINED BY THE MUNICIPALITY, AND A MUNICIPALITY SHALL NOT BE REQUIRED  
 17 TO PROVIDE SUCH REIMBURSEMENT FROM ANY FUNDS OTHER THAN THE DEVELOPMENT FEES  
 18 RECEIVED FROM OTHER DEVELOPMENT RECEIVING THE BENEFICIAL USE OF SUCH SPECIFIC  
 19 REAL PROPERTY OR IMPROVEMENT. CREDITS FOR WHICH REIMBURSEMENT ARE PROVIDED  
 20 UNDER THIS SUBSECTION CAN BE PROVIDED FOR IN A DEVELOPMENT AGREEMENT PURSUANT  
 21 TO SECTION 9-500.05 OF THIS CHAPTER OR OTHER AGREEMENT AND SHALL BE VALID FOR  
 22 A PERIOD OF TEN YEARS FROM THE DATE THAT THE DEVELOPMENT FEE FOR THE  
 23 NECESSARY PUBLIC SERVICE THAT IS THE SUBJECT OF SUCH CREDIT IS FIRST  
 24 COLLECTED BY THE MUNICIPALITY FROM THE NEW DEVELOPMENT THAT PROVIDED THE  
 25 REQUIRED REAL PROPERTY OR IMPROVEMENT FOR THE NECESSARY PUBLIC SERVICE. IF  
 26 NEW DEVELOPMENT THAT IS SUBJECT TO A DEVELOPMENT FEE FOR A NECESSARY PUBLIC  
 27 SERVICE IS REQUIRED, AS A CONDITION TO THE GOVERNING BODY'S APPROVAL OF LAND  
 28 USES PURSUANT TO ARTICLE 6.1 OF THIS CHAPTER, TO PROVIDE REAL PROPERTY OR  
 29 PUBLIC INFRASTRUCTURE NOT THEN INCLUDED IN THE MUNICIPALITY'S ADOPTED CAPITAL  
 30 IMPROVEMENTS PLAN BUT WHICH WOULD COMPRISE THE NECESSARY PUBLIC SERVICE THAT  
 31 IS THE SUBJECT OF THE DEVELOPMENT FEE IF INCLUDED IN THE CAPITAL IMPROVEMENTS  
 32 PLAN, THE MUNICIPALITY MAY AMEND ITS CAPITAL IMPROVEMENTS PLAN TO INCLUDE THE  
 33 REAL PROPERTY OR PUBLIC INFRASTRUCTURE IN CONJUNCTION WITH SUCH APPROVAL,  
 34 WITHOUT FURTHER NOTICE OR PUBLIC HEARING EXCEPT AS REQUIRED IN CONNECTION  
 35 WITH THE GOVERNING BODY'S APPROVAL OF SUCH LAND USES PURSUANT TO ARTICLE 6.1  
 36 OF THIS CHAPTER. The developer of residential dwelling units shall be  
 37 required to pay development fees when construction permits for the dwelling  
 38 units are issued.

39 4. The amount of any development fees assessed pursuant to this  
 40 section must bear a reasonable relationship to the burden imposed upon the  
 41 municipality to provide additional necessary public services to the  
 42 development SUBJECT TO THE DEVELOPMENT FEES AND SHALL NOT INCLUDE ANY PORTION  
 43 OF THE COST OF THE NECESSARY PUBLIC SERVICES ATTRIBUTABLE TO EXISTING  
 44 DEVELOPMENT. ~~The municipality, in determining~~ THE AMOUNT OF ANY DEVELOPMENT  
 45 FEE ASSESSED AFTER THE EFFECTIVE DATE OF THIS SECTION ~~the extent of the~~

~~burden imposed by the development, shall consider, among other things, the~~  
 SHALL BE BASED ON LAND USES APPROVED PURSUANT TO ARTICLE 6.1 OF THIS CHAPTER  
 OR THE ADOPTED GENERAL PLAN OR, WHERE THE PERIOD COVERED BY THE CAPITAL  
 IMPROVEMENTS PLAN EXTENDS BEYOND THE PERIOD COVERED BY THE ADOPTED GENERAL  
 PLAN, OTHER PROJECTED LAND USE PLAN ADOPTED BY THE GOVERNING BODY OF THE  
 MUNICIPALITY, THE ESTIMATED COST OF PROVIDING THE NECESSARY PUBLIC SERVICE TO  
 EXISTING DEVELOPMENT, IF APPLICABLE, AND TO NEW DEVELOPMENT AND THE ESTIMATED  
 TIMES AT WHICH THE COST WILL BE INCURRED. THE DETERMINATION REQUIRED UNDER  
 THIS PARAGRAPH MAY INCLUDE PROJECTED INTEREST CHARGES OR OTHER FINANCE COSTS  
 IF A DEVELOPMENT FEE WILL BE USED TO PAY PRINCIPAL AND INTEREST ON BONDS  
 IDENTIFIED IN THE CAPITAL IMPROVEMENTS PLAN AND ISSUED BY OR ON BEHALF OF THE  
 MUNICIPALITY TO FINANCE THE NECESSARY PUBLIC SERVICE THAT IS THE SUBJECT OF  
 THE DEVELOPMENT FEE. THE DETERMINATION REQUIRED UNDER THIS PARAGRAPH SHALL  
 ALSO INCLUDE THE ESTIMATED CONTRIBUTION MADE OR TO BE MADE IN THE FUTURE IN  
 CASH OR BY TAXES, FEES OR ASSESSMENTS BY THE PROPERTY OWNER ~~towards the~~  
~~capital costs of the necessary public service covered by the development fee~~  
 AND ANY CONTRIBUTION RECEIVED FROM THE FEDERAL OR STATE GOVERNMENT OR ANY  
 POLITICAL SUBDIVISION OF THE FEDERAL OR STATE GOVERNMENT.

5. If development fees are assessed by a municipality, such fees shall  
 be assessed in a ~~non-discriminatory~~ NONDISCRIMINATORY manner.

6. In determining and assessing a development fee applying to land in  
 a community facilities district established under title 48, chapter 4,  
 article 6, the municipality shall take into account all public infrastructure  
 provided by the district ~~and capital costs paid by the district~~ for necessary  
 public services THAT ARE THE SUBJECT OF THE DEVELOPMENT FEE and shall not  
 assess ALL OR a portion of the development fee based on the PUBLIC  
 infrastructure ~~or costs~~ PROVIDED BY THE DISTRICT.

C. A MUNICIPALITY SHALL GIVE AT LEAST ONE HUNDRED TWENTY DAYS' ADVANCE  
 NOTICE OF INTENTION TO ADOPT OR AMEND A CAPITAL IMPROVEMENTS PLAN OR, IF  
 APPLICABLE, TO ADOPT A DEVELOPMENT FEE PROVIDED FOR IN A CAPITAL IMPROVEMENTS  
 PLAN ADOPTED PURSUANT TO THIS SECTION. SUCH NOTICE MAY BE GIVEN IN  
 CONJUNCTION WITH THE MUNICIPALITY'S SCHEDULE TO ADOPT AN ANNUAL BUDGET  
 PURSUANT TO TITLE 42, CHAPTER 17, ARTICLE 3. THE MUNICIPALITY SHALL RELEASE  
 TO THE PUBLIC A WRITTEN REPORT INCLUDING ALL DOCUMENTATION THAT SUPPORTS THE  
 PROPOSED CAPITAL IMPROVEMENTS PLAN OR AMENDMENT TO CAPITAL IMPROVEMENTS PLAN  
 OR DEVELOPMENT FEE. THE MUNICIPALITY SHALL CONDUCT A PUBLIC HEARING ON THE  
 PROPOSED CAPITAL IMPROVEMENTS PLAN OR AMENDMENT OR DEVELOPMENT FEE AT ANY  
 TIME AFTER THE EXPIRATION OF THE ONE HUNDRED TWENTY DAY NOTICE OF INTENTION  
 TO ADOPT A CAPITAL IMPROVEMENTS PLAN OR AMENDMENT OR DEVELOPMENT FEE AND AT  
 LEAST THIRTY DAYS BEFORE THE SCHEDULED DATE OF ADOPTION OF THE CAPITAL  
 IMPROVEMENTS PLAN OR AMENDMENT OR DEVELOPMENT FEE. THE PUBLIC HEARING MAY BE  
 HELD IN CONJUNCTION WITH THE PUBLIC HEARING REQUIRED TO BE HELD BY THE  
 MUNICIPALITY FOR ADOPTION OF ITS ANNUAL ESTIMATE OF EXPENDITURES PURSUANT TO  
 TITLE 42, CHAPTER 17, ARTICLE 3 PROVIDED SUCH HEARING OCCURS AT LEAST THIRTY  
 DAYS BEFORE THE SCHEDULED DATE OF ADOPTION OF THE CAPITAL IMPROVEMENTS PLAN

OR AMENDMENT. A DEVELOPMENT FEE ESTABLISHED OR AMENDED IN A CAPITAL IMPROVEMENTS PLAN OR AMENDMENT TO CAPITAL IMPROVEMENTS PLAN ADOPTED PURSUANT TO THIS SECTION SHALL NOT BE EFFECTIVE UNTIL THIRTY DAYS AFTER ITS FORMAL ADOPTION AS PART OF THE CAPITAL IMPROVEMENTS PLAN BY THE GOVERNING BODY OF THE MUNICIPALITY. NOTHING IN THIS SUBSECTION SHALL AFFECT ANY DEVELOPMENT FEE ADOPTED BEFORE THE EFFECTIVE DATE OF THIS SECTION.

D. IF ALL NECESSARY PUBLIC SERVICES THAT ARE THE SUBJECT OF DEVELOPMENT FEES ASSESSED BY A MUNICIPALITY ARE ADDRESSED IN A CAPITAL IMPROVEMENTS PLAN OR AMENDMENT TO CAPITAL IMPROVEMENTS PLAN ADOPTED PURSUANT TO THIS SECTION THE MUNICIPALITY MAY ADJUST ANY SUCH DEVELOPMENT FEE WITHOUT FURTHER AMENDMENT OF THE CAPITAL IMPROVEMENTS PLAN IF THE ADJUSTMENT IS BASED ON A RECOGNIZED INDEX APPLICABLE TO THE COST OF THE NECESSARY PUBLIC SERVICE THAT IS THE SUBJECT OF THE DEVELOPMENT FEE. A municipality shall give at least sixty days' advance notice of intention to ~~assess a new or increased~~ ADJUST A development fee PURSUANT TO THIS SUBSECTION and shall release to the public a written report including all documentation that supports the ~~assessment of a new or increased~~ ADJUSTMENT IN THE development fee. The municipality shall conduct a public hearing on the proposed ~~new or increased development fee~~ ADJUSTMENT at any time after the expiration of the sixty day notice of intention to ~~assess a new or increased~~ ADJUST THE development fee and at least fourteen days ~~prior to~~ BEFORE the scheduled date of adoption of the ~~new or increased fee~~ ADJUSTMENT by the governing body. ~~A~~ AN ADJUSTMENT IN A development fee assessed pursuant to this section shall not be effective until ~~ninety~~ THIRTY days after its formal adoption by the governing body of the municipality. Nothing in this subsection shall affect any development fee adopted ~~prior to July 24, 1982~~ BEFORE THE EFFECTIVE DATE OF THIS SECTION PROVIDED SUCH DEVELOPMENT FEE COMPLIES WITH THE REQUIREMENTS OF PARAGRAPHS 4 AND 5 OF SUBSECTION B OF THIS SECTION.

~~D.~~ E. Each municipality that assesses development fees shall submit an annual report accounting for the collection and use of the fees. The annual report shall include the following:

1. The amount assessed by the municipality for each type of development fee.

2. The balance of each fund maintained for each type of development fee assessed as of the beginning and end of the fiscal year.

3. The amount of interest or other earnings on the monies in each fund as of the end of the fiscal year.

4. The amount of development fee monies used to repay:

(a) Bonds issued by the municipality to pay the cost of a capital improvement project that is the subject of a development fee ~~assessment~~.

(b) Monies advanced by the municipality from funds other than the funds established for development fees in order to pay the cost of a capital improvement project that is the subject of a development fee ~~assessment~~.

1           5. The amount of development fee monies spent on each capital  
2 improvement project that is the subject of a development fee ~~assessment~~ and  
3 the physical location of each capital improvement project.

4           6. The amount of development fee monies spent for each purpose other  
5 than a capital improvement project that is the subject of a development fee  
6 ~~assessment~~.

7           ~~E.~~ F. Within ninety days following the end of each fiscal year, each  
8 municipality shall submit a copy of the annual report to the city clerk.  
9 Copies shall be made available to the public on request. The annual report  
10 may contain financial information that has not been audited.

11           ~~F.~~ G. A municipality that fails to file the report required by this  
12 section shall not collect development fees until the report is filed.

13           H. A MUNICIPALITY SHALL HAVE ONE YEAR FROM THE DATE THAT A DEVELOPMENT  
14 FEE ASSESSED UNDER THIS SECTION IS PAID OR PAYABLE TO THE MUNICIPALITY TO  
15 NOTIFY THE PAYOR OF THE DEVELOPMENT FEE OF ANY DISCREPANCY IN THE ASSESSMENT  
16 AND COLLECTION OF THE DEVELOPMENT FEE AND IF NO SUCH NOTICE IS PROVIDED, NO  
17 ACTION MAY BE TAKEN TO COLLECT ANY ADDITIONAL AMOUNT IN RESPECT OF SUCH  
18 DEVELOPMENT FEE.

19           I. FOR THE PURPOSES OF THIS SECTION:

20           1. "CAPITAL IMPROVEMENTS PLAN" MEANS A WRITTEN PLAN THAT IDENTIFIES  
21 EACH NECESSARY PUBLIC SERVICE THAT IS PROPOSED TO BE THE SUBJECT OF A  
22 DEVELOPMENT FEE AND OTHERWISE COMPLIES WITH THE REQUIREMENTS OF THIS SECTION.  
23 A CAPITAL IMPROVEMENTS PLAN MAY BE PREPARED AS PART OF AND INCLUDED IN THE  
24 BUDGET OF THE MUNICIPALITY PREPARED IN ACCORDANCE WITH TITLE 42, CHAPTER 17,  
25 ARTICLE 3.

26           2. "DEVELOPMENT" MEANS THE IMPROVEMENT OF REAL PROPERTY THROUGH THE  
27 CONSTRUCTION, INSTALLATION, RECONSTRUCTION, REDEVELOPMENT, CONVERSION,  
28 STRUCTURAL ALTERATION, ENLARGEMENT OR RENOVATION OF NEW OR EXISTING  
29 STRUCTURES OR OTHER IMPROVEMENTS OR ADDITIONS TO STRUCTURES.

30           3. "LEVEL OF SERVICE" MEANS THE RATIO OF USE OF A NECESSARY PUBLIC  
31 SERVICE TO THE TYPE OF LAND USE, INCLUDING RESIDENTIAL, COMMERCIAL, RETAIL  
32 AND INDUSTRIAL LAND USES.

33           4. "PUBLIC INFRASTRUCTURE" MEANS CAPITAL IMPROVEMENTS FOR PUBLIC USE  
34 AND INCLUDES THE DESIGN, ENGINEERING, CONSTRUCTION, RECONSTRUCTION,  
35 UPGRADING, INSTALLATION, CONVERSION, RENOVATION OR ACQUISITION OF CAPITAL  
36 IMPROVEMENTS FOR PUBLIC USE.

37           5. "PUBLIC SERVICE" MEANS PUBLIC INFRASTRUCTURE THAT PROVIDES A  
38 SERVICE THAT IS WITHIN THE SCOPE OF SERVICES A MUNICIPALITY IS AUTHORIZED TO  
39 PROVIDE UNDER THIS TITLE, INCLUDING WATER SYSTEMS FOR DOMESTIC, INDUSTRIAL,  
40 IRRIGATION OR FIRE PROTECTION PURPOSES, WATER RESOURCES, SANITARY SEWAGE  
41 SYSTEMS, SOLID WASTE FACILITIES, DRAINAGE AND FLOOD CONTROL SYSTEMS, STREETS,  
42 ROADWAYS, BRIDGES AND PARKING FACILITIES, AREAS FOR PEDESTRIAN, BICYCLE OR  
43 OTHER NONMOTOR VEHICLE USE, LIBRARIES, PARKS, RECREATIONAL FACILITIES AND  
44 OPEN SPACE AREAS, LANDSCAPING, PUBLIC BUILDINGS, PUBLIC SAFETY FACILITIES,  
45 FIRE PROTECTION FACILITIES, LIGHTING SYSTEMS, EQUIPMENT REPAIR FACILITIES AND

1 TRAFFIC CONTROL SYSTEMS AND DEVICES, AND SHALL INCLUDE ALL NECESSARY OR  
2 DESIRABLE APPURTENANCES INCLUDING EQUIPMENT, VEHICLES, FURNISHINGS AND OTHER  
3 PERSONALTY AND THE ACQUISITION OF INTERESTS IN REAL PROPERTY FOR SUCH PUBLIC  
4 INFRASTRUCTURE.

5 6. "SERVICE AREA" MEANS ALL OR ANY PORTION OF THE LAND AREA WITHIN THE  
6 CORPORATE BOUNDARIES OF A MUNICIPALITY TO BE SERVED BY A NECESSARY PUBLIC  
7 SERVICE AND MAY INCLUDE ALL OR ANY PORTION OF THE LAND AREA WITHIN THE  
8 PLANNING AREA OF THE MUNICIPALITY, AS REFLECTED IN THE ADOPTED GENERAL PLAN  
9 OF THE MUNICIPALITY, THAT WILL BE SERVED BY THE NECESSARY PUBLIC SERVICE IF  
10 SUCH NECESSARY PUBLIC SERVICE AND THE DEVELOPMENT FEE IN RESPECT OF SUCH  
11 NECESSARY PUBLIC SERVICE ARE PROVIDED FOR IN AN INTERGOVERNMENTAL AGREEMENT  
12 BETWEEN THE MUNICIPALITY AND THE COUNTY IN WHICH SUCH LAND AREA IS LOCATED.

13 Sec. 2. Title 9, chapter 4, article 8, Arizona Revised Statutes, is  
14 amended by adding section 9-500.26, to read:

15 9-500.26. Construction contracting industry; discrimination  
16 prohibited; use of tax proceeds; exemption;  
17 definitions

18 A. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, A CITY OR TOWN  
19 SHALL NOT DISCRIMINATE AGAINST CONSTRUCTION CONTRACTING INDUSTRY BUSINESSES  
20 IN THE IMPOSITION OR COLLECTION OF TRANSACTION PRIVILEGE TAXES. FOR THE  
21 PURPOSES OF THIS SECTION:

22 1. "CONSTRUCTION CONTRACTING INDUSTRY BUSINESSES" MEANS:

23 (a) AN OWNER-BUILDER WHO SELLS OR CONTRACTS TO SELL, AT ANY TIME,  
24 IMPROVED REAL PROPERTY CONSISTING OF CUSTOM, MODEL, OR INVENTORY HOMES,  
25 REGARDLESS OF THE STAGE OF COMPLETION OF SUCH HOMES; OR

26 (b) IMPROVED RESIDENTIAL OR COMMERCIAL LOTS WITHOUT A STRUCTURE.

27 2. "DISCRIMINATE" MEANS THE PERCENTAGE AMOUNT OF THE TRANSACTION  
28 PRIVILEGE TAX RATE IMPOSED ON ANY CONSTRUCTION CONTRACTING INDUSTRY BUSINESS  
29 CLASSIFICATION EXCEEDS THE PERCENTAGE AMOUNT OF THE TRANSACTION PRIVILEGE TAX  
30 RATE IMPOSED ON THE MAJORITY OF OTHER BUSINESS CLASSIFICATIONS BY A CITY OR  
31 TOWN ON OR AFTER JULY 1, 2006. FOR THE PURPOSES OF THIS SUBSECTION, AN  
32 INCREASE IN THE PERCENTAGE AMOUNT OF THE TRANSACTION PRIVILEGE TAX RATE  
33 IMPOSED ON ANY CONSTRUCTION CONTRACTING INDUSTRY BUSINESS CLASSIFICATION  
34 COMMENSURATE WITH A CORRESPONDING INCREASE IN THE TRANSACTION PRIVILEGE TAX  
35 RATE IMPOSED ON A MAJORITY OF ALL OTHER TRANSACTION PRIVILEGE TAX  
36 CLASSIFICATIONS.

37 B. ON OR AFTER JULY 1, 2006, A CITY OR TOWN MAY DISCRIMINATE AGAINST  
38 CONSTRUCTION CONTRACTING INDUSTRY BUSINESSES IN THE IMPOSITION OR COLLECTION  
39 OF TRANSACTION PRIVILEGE TAX ON CONSTRUCTION CONTRACTING INDUSTRY BUSINESS  
40 CLASSIFICATIONS PROVIDED THE PROCEEDS OF ANY SUCH DISCRIMINATORY TRANSACTION  
41 PRIVILEGE TAX SHALL BE USED EXCLUSIVELY BY THE CITY OR TOWN FOR THE  
42 CONSTRUCTION OF NEW PUBLIC INFRASTRUCTURE COMPRISING NECESSARY PUBLIC  
43 SERVICES FOR NEW DEVELOPMENT.